

DEC 19 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON

U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

KENNETH ADRIAN FULLER,

Petitioner - Appellant,

v.

JOHN HAYDEN; OLIVIA CRAVEN;
GLEN TURNER, Warden,

Respondents - Appellees.

No. 02-35688

D.C. No. CV-01-00250-BLW

ORDER*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief District Judge, Presiding

Submitted December 1, 2003**
Seattle, Washington

Before: BRUNETTI, T.G. NELSON, and GRABER, Circuit Judges.

AFFIRMED for the reasons given by the district court in its order of
November 5, 2001. On remand, the district court shall amend its judgment to permit

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral
argument. See FED. R. APP. P. 34(a)(2).

Fuller to move to reopen the case if the courts of the State of Idaho ultimately hold that he may not pursue a petition for writ of habeas corpus in those courts.

AFFIRMED and REMANDED with instructions.